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Docket No.: DSC-AP-0204

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MAIL STOP: ~~APPEAL BRIEF-PATENTS~~By: Date: October 25, 2006RALPH E. LOCHER  
REG. NO. 41,947

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Before the Board of Patent Appeals and Interferences

Applic. No. : 10/822,023 Confirmation No.: 1693  
Inventor : Kerstin Churt, et al.  
Filed : April 8, 2004  
Title : Method of Notifying an Apparatus in a System  
TC/A.U. : 2617  
Examiner : David Nguyen  
Customer No. : 24131

Hon. Commissioner for Patents  
Alexandria, VA 22313-1450

**BRIEF ON APPEAL**

S i r :

This is an appeal from the final rejection in the Office action dated May 30, 2006, finally rejecting claims 1-16.

10/26/2006 MBINAS 00000014 10022023

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Appellants submit this *Brief on Appeal* including payment in the amount of \$500.00 to cover the fee for filing the *Brief on Appeal*.

Real Party in Interest:

This application is assigned to Hydrometer Electronic GmbH of Nürnberg, Germany. The assignment was recorded under Reel/Frame Nos. 017666/0504 on March 13, 2006.

Related Appeals and Interferences:

No related appeals or interference proceedings are currently pending which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

Status of Claims:

Claims 1-16 are rejected and are under appeal. No claims were cancelled.

Status of Amendments:

No claims were amended after the final Office action. A *Response under 37 CFR § 1.116* was filed on July 31, 2006. The Primary Examiner stated in an *Advisory Action* dated August 9, 2006, that the request for reconsideration had been considered but did not place the application in condition for

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allowance. Accordingly, applicants filed a *Notice of Appeal* on August 28, 2006.

Summary of the Claimed Subject Matter:

As stated in the first paragraph on page 1 of the specification of the instant application, the invention relates to a method of notifying an apparatus in a system, an apparatus for carrying out the method, and a system containing such apparatuses.

Applicants explained on page 7 of the specification, line 11, that, referring now to the figures of the drawing in detail and first, particularly, to Fig. 1 thereof, there is shown a master data collector 1 that has an infrared interface 2 with an infrared receiver 3 (for example an IR photocell or photodiode). A terminal apparatus 4 also has an infrared interface 5 that has an infrared transmitter 6 (for example an IR light emitting diode).

Appellants further explained on page 7 of the specification, line 19, that the master data collector 1 is the central apparatus of a data transmission radio network to be constructed (see also Fig. 3). Information as to which apparatuses belong to the radio network must be stored therein so that in operation it can evaluate the data of all

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subscribers belonging to the radio network (but also only those actually belonging to the radio network). For that purpose each apparatus that is to belong to the radio network must be announced therein. For that purpose each terminal apparatus 4 is held in front of the master data collector 1 in such a way that the infrared transmitter 6 of the terminal apparatus 4 and the infrared receiver 3 of the master data collector 1 are opposite to each other. When a button is pressed (or when another initialization method is executed) the infrared transmitter 6 of the terminal apparatus 4 sends infrared signals to the infrared receiver 3 of the master data collector 1. The latter evaluates the signals and stores the information about the terminal apparatus 4 that has now been announced, in an internal memory. After a successful announcement, an acoustic confirmation signal sounds, which is produced by a buzzer disposed in the master data collector 1.

It is outlined on page 8 of the specification, line 15, that, in the same way data collectors 7 with an optical interface 8 and an infrared transmitter 9 can also be announced to the master data collector 1.

Appellants stated in the last paragraph on page 8 of the specification, line 19, that, in accordance with a second

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embodiment only the data collectors 7 are announced to the master data collector 1 (see Fig. 2A). The terminal apparatuses 4 are in turn announced to the data collectors 7 with which they are to be later associated in normal operation (see Fig. 2B and hereinafter). For that purpose, in its optical interface 8, besides an infrared transmitter 9, the data collector 7 also has an infrared receiver 10. The information communicated by the terminal apparatus 4 is stored in the data collector 7 and/or passed by radio transmission to the master data collector 1 where it is stored in the memory thereof. In this case also, after a successful announcement, an acoustic confirmation signal sounds, which is produced by a buzzer in the data collector 7 and/or in the master data collector 1.

Appellants explained on page 9 of the specification, line 8, that, accordingly in accordance with the invention it is possible that the information about the apparatuses participating in the radio network is present only in the master data collector 1, that it is in part also present in the data collectors 7 or that the information in respect of the participating data collectors is present in the master data collector 1 and the information in respect of the respective terminal apparatuses announced to the data collectors 7 and associated therewith is present therein. At

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any event however the apparatuses that participate in the radio network are established therein.

It is further outlined on page 9 of the specification, line 19, that it should be noted here that, after an announcement has been implemented, the radio communication between the individual apparatuses must be implemented separately.

As set forth in the last paragraph on page 9 of the specification, line 23, Fig. 3 is a view showing in principle a data transmission radio network that is initialized in the described manner. Here heating cost distributors 4' and water meters 4" function as the terminal apparatuses 4. Further terminal apparatuses 4 in such a data acquisition system can be electricity meters, gas meters and the like. The terminal apparatuses 4', 4" send the consumption data directly to the master data collector 1 (radio paths 11.1) or first to the data collectors 7 (radio paths 11.2) from where they are collected or transmitted successively to the master data collector 1 (radio path 11.3). In that way all consumption data go to the master data collector 1 where they can be evaluated and subjected to further processing.

Appellants stated on page 10 of the specification, line 11, that, in order to be able to participate in the radio

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communication the terminal apparatuses 4' and 4" have radio modules 12 with a transmitter, the data collectors 7 have radio modules 13 with a transmitter and a receiver and the master data collector 1 has a radio module 14 with a receiver.

Appellants outlined in the last paragraph on page 10 of the specification, line 17, that the association of the terminal apparatuses 4 with data collectors 7 or directly with the master data collector 1 can be effected in such a way that the terminal apparatuses 4 are associated with those apparatuses to which they were announced. Alternatively or also cumulatively however the association can also be implemented using the method described in above-mentioned Published, Non-Prosecuted German Patent Application DE 101 52 554 A1, corresponding to U.S. Patent Publication No. 20030078030 A1, the disclosure of which is hereby completely incorporated herein.

It is explained on page 11 of the specification, line 2, that, in the case of small radio networks the use of data collectors 7 can be superfluous so that the terminal apparatuses 4 are always announced directly to the master data collector 1 and in operation also only send data thereto. In contrast, in the case of very large data

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networks, the use of data transceivers may be necessary which receive data from the data collectors 7 and forward it to the master data collector 1. It will be appreciated that those data transceivers must be configured in the same manner as the data collectors 7 and announced in the radio network.

As further explained on page 11 of the specification, line 13, data transmission both in the announcement method and also in radio operation of the network can be effected serially or also parallel. Optical communication for announcing or notifying the subscribers to the system includes the visible, infrared and ultra-violet ranges.

The subject matter of each independent claim is described in the specification of the instant application. Examples explaining the subject matter defined in each of the independent claims, referring to the specification by page and line numbers, and to the drawings, are given below.

Independent claim 1 recites a method of announcing an individual apparatus (4, 7) to a system containing a central apparatus (1) (Fig. 1, page 7, line 25 to page 8, line 5), which comprises the steps of:



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announcing the individual apparatus (4) to the system using optical communication (2, 5) (Fig. 1, page 7, line 25 to page 8, line 5);

storing information about the individual apparatus (4, 7) in the system in the central apparatus (1) (page 8, lines 8-11); and

after completing the announcing step, communicating further information through radio communications (page 9, lines 19-21).

Independent claim 10 recites an apparatus (4, 7) for communicating with at least one other apparatus (1), the apparatus comprising:

an optical interface (5, 8) (Fig. 1, page 7, line 25 to page 8, line 5) for implementing optical communication with the at least one other apparatus (1), the optical communication providing information about the apparatus (4, 7) for announcing a presence of the apparatus to the at least one other apparatus (1).

Independent claim 11 recites a system, comprising:

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a first apparatus being a central apparatus (1) having a first optical interface (2) for performing optical communication (Fig. 1, page 7, lines 11-15); and

a second apparatus selected from the group consisting of an individual apparatus (4) and an intermediary apparatus (7) and having a second optical interface (5, 8) for performing optical communication with said first optical interface (2), the optical communication only providing information about said second apparatus for announcing a presence of said second apparatus to said first apparatus (Figs. 1 and 2A; page 7, line 25 to page 8, line 5, and page 8, line 19 to page 9, line 6).

Independent claim 14 recites a system, comprising:

a first apparatus being a central apparatus (1) having a first optical interface (2) for performing optical communication (Fig. 1, page 7, lines 11-15);

a second apparatus being an individual apparatus (4, 4', 4'') and having a second optical interface (5) for performing optical communication (Figs. 1, 2B and 3; page 7, line 25 to page 8, line 5); and

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a third apparatus (7) being an intermediary apparatus and having a third optical interface (8) for performing optical communication (Figs. 2A, 2B and 3; page 8, line 19 to page 9, line 6), said third optical interface (8) communicating with said first and second optical interfaces (2, 5) (page 8, line 24 to page 9, line 6) the optical communication providing information about said second and third apparatuses for announcing a presence of said second and third first apparatuses to said first apparatus (page 8, line 24 to page 9, line 6).

References Cited:

US 6,369,719 B1	Tracy et al.	April 9, 2002
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Grounds of Rejection to be Reviewed on Appeal

1. Whether or not claims 1-16 are anticipated by U.S. patent No. 6,369,719 to Tracy et al. (hereinafter Tracy) under 35 U.S.C. § 102(e).

Argument:

- I. Whether or not claims 1-16 are anticipated by U.S. patent No. 6,369,719 to Tracy et al. (hereinafter Tracy) under U.S.C. §102(e).

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In item 2 of the final Office Action, mailed May 30, 2006  
("the final Office Action"), claims 1-16 were rejected under  
35 U.S.C. § 102(e) as allegedly being anticipated by U.S.  
Patent No. 6,369,719 to Tracy.

Appellants respectfully disagree.

#### Background Information

The invention relates to subscribers announcing themselves to a central apparatus or vice versa. For example, a data collector such as an electric meter announces itself to be part of the system to a master data collector (e.g. a billing computer). Such announcements in a system have hitherto been implemented either by way of a portable computer connected directly to the central apparatus, such as for example a laptop or a handheld computer, in which case each subscriber to be notified or announced must be inputted manually into the portable computer and then transmitted to the central apparatus.

It is also known in radio networks to implement the announcement of the subscribers to the central authority by radio. This however suffers from the disadvantage that, because of the relatively great radio range, a subscriber

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that is to be announced can be announced simultaneously to a plurality of central authorities. In order to be able to prevent that, all other apparatuses in question must first be screened or switched off before the announcement procedure can take place, and in the case of relatively large systems this involves a considerable amount of complication and expenditure.

**IA. Appellants' claim 1 is patentable over the Tracy reference**

Tracy describes a system for remotely monitoring and transmitting data and other information from utility type devices (e.g. meters). The information is initially received in analog form, converted to digital form, and then transmitted to interested parties. In particular Tracy describes a read device (reader 300), which directs infrared radiation toward a mechanical, rotary measuring disk 348 of an electricity or water meter 344 and then receives again the infrared light reflected by the metering disk 348. In this case, the reader 300 detects the passing movement of a marking on the rotary meter disk 348 and can thus determine the rotations of the metering unit 344 and calculates the electricity or water consumption therefrom. The reader 300 then transmits the data wired or wirelessly to a remote device 140 via a universal reader 120.

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The reader 300 or read out method described in Tracy has, however, little to do with the subject matter of the invention of the instant application. In the instant application, the consumption data is not read out via optical scanning.

Rather, in the instant application the optical communication is exclusively used for a one-time announcement of the individual consumption detection device to the central unit of the system (the master data collector) when initially installing the consumption detection system (formed of consumption detection devices and one or more data collectors), so that the master data collector knows, during later operation of the consumption detection system, which devices belong to "its" system to ensure that only the consumption data transmissions - transmitted via radio communications - of those data collectors actually assigned to it are considered and possibly forwarded.

Such a method for announcing a device to a system during initial installation of the system is not described in any manner in Tracy, and there are no hints therein to such a method or system according to the invention of the instant application so that the subject matter of the invention is not anticipated by Tracy.

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Claim 1 of the instant application recites the steps of:

announcing the individual apparatus to the system using optical communication;

storing information about the individual apparatus in the system in the central apparatus; and

after completing the announcing step, communicating further information through radio communications.

A clear distinction is made between the individual apparatus announcing itself (e.g. identifying itself) to the system (e.g. the central apparatus) via optical communications and that of its later communication of further information, such as consumption data, through radio communications.

Clearly, Tracy does teach the step of transmitting further information, but Tracy does not teach that the individual apparatuses first announce themselves to the system using optical communications. It is noted that in Tracy the reader 300 is attached to the meter 344 and that the reader 300 scans or reads the meter 344. However, there is no optical communications between the reader 300 and the remote device 140 or the universal meter reader 120. It is further emphasized that there is no optical communications between the meter 344 and the reader 300 as the meter 344 does not provide any communications and cannot as it does not have an optical interface. Rather the meter 344 is read or scanned.

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In contrast, in the instant application the individual apparatus 4 is believed to be equivalent to the reader 300 of Tracy and the central apparatus 1 is equivalent to the remote device 140 or the universal meter reader 120. It is respectfully believed that Tracy cannot read on claim 1 of the instant application because the reader 300 does not optically announce itself to either the remote device 140 nor the universal meter reader 120. Furthermore, there is no optical communications between the reader 300 and the meter 344 because the meter 344 does not have an optical interface for performing optical communications with the reader 300.

In order to construct a system and keep it in operation, it is necessary to know, within the system (in the master data collector and/or in the data collectors), which apparatuses belong to the system. Therefore all apparatuses that are to be introduced into the system must first be notified to the system, that is to say announced thereto.

As noted above, the announcement of the subscribers to the system was usually done either by way of a portable computer connected directly to the central apparatus, or it was done by a radio network. However, both methods are complex and time consuming compared to the invention of the instant



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application. Therefore, an optical based announcement system has clear advantages over the prior art including Tracy.

**IB. Appellants' claim 10 is patentable over the Tracy reference.**

Claim 10 of the instant application recites:

an optical interface for implementing optical communication with the at least one other apparatus, the optical communication providing information about the apparatus for announcing a presence of the apparatus to the at least one other apparatus (emphasis added).

As noted above, in Tracy the reader 300 can only optically scan the meter 344. The meter 344 does not provide information to the reader 300 for announcing its presence to the reader 300, nor vice versa. More specifically, the meter 344 does not have an optical interface and therefore cannot optically communicate with the reader 300. In Tracy, the reader 300 has a radiation transmitter 310 transmitting an infrared light that is reflected by the utility meter disk 348 and the reflected light is read by the light detector 320 of the reader 300.

Therefore, the meter 344 does not (cannot) announce itself to the reader 300 nor can the meter 344 receive an optical announcement from the reader 300 as the meter cannot receive optical communications. The reader 300 certainly obtains

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(scans) information from the meter 344 but the meter 344 does not communicate with the reader 300 in Tracy.

Finally, as there is no communications between the meter 344 and the reader 300, one device cannot announce its presence to the other as there is no announcement received by either the meter 344 nor the reader 300.

**IC. Appellants' claim 11 is patentable over the Tracy reference.**

Claim 11 of the instant application recites:

a first apparatus being a central apparatus having a first optical interface for performing optical communication; and

a second apparatus selected from the group consisting of an individual apparatus and an intermediary apparatus and having a second optical interface for performing optical communication with said first optical interface, the optical communication only providing information about said second apparatus for announcing a presence of said second apparatus to said first apparatus (emphasis added).

As noted above, in Tracy the reader 300 only scans the meter 344. In claim 11 of the instant application, the first apparatus 1 and second apparatus 4, 7 (equivalent to the reader 300 of Tracy) each have an optical interface which together form an optical communications channel between the first and second apparatus for exchanging information (e.g. an announcement). In contrast, the reader 300 of Tracy does

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not announce itself to the remote device 140 nor the universal reader 120 in an optical manner. This is not possible in Tracy because neither the remote device 140 nor the universal reader 120 have an optical interface for performing optical communication as recited in claim 11 of the instant application. Nor is there optical communications between the reader 300 and the meter 344 because the meter 344 does not have an optical interface.

**ID. Appellants' claim 14 is patentable over the Tracy reference.**

Claim 14 of the instant application recites:

a first apparatus being a central apparatus having a first optical interface for performing optical communication;

a second apparatus being an individual apparatus and having a second optical interface for performing optical communication; and

a third apparatus being an intermediary apparatus and having a third optical interface for performing optical communication, said third optical interface communicating with said first and second optical interfaces, the optical communication providing information about said second and third apparatuses for announcing a presence of said second and third first apparatuses to said first apparatus (emphasis added).

First, Tracy does not teach three apparatuses having each having an optical interface for allowing optical communications. In Tracy only the reader 300 has an optical interface. Neither, the universal meter reader 120 nor the

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remote device 140 has an optical interface for optically communicating with the reader 300. Nor does the meter 344.

Second, Tracy does not teach that the optical communications provides information about the second and third apparatuses for announcing a presence of the second and third apparatuses to the first apparatus. In other words, the second and third apparatus advise the first apparatus that they are part of the system. More specifically, information is transmitted by the second and third devices to the first device and the first device stores the information. As only one device in Tracy has an optical interface, there can be no optical communications between the devices. In other words, the meter 344 does not announce itself to the reader 300. For the record, no devices announce themselves, via optical communications, to any other devices in Tracy.

## II. Conclusion.

It is accordingly believed that Tracy does not anticipate the features of claims 1, 10, 11 and 14 of the instant application. The dependent claims, are believed to be patentable as well because they all are ultimately dependent on claims 1, 11 or 14.

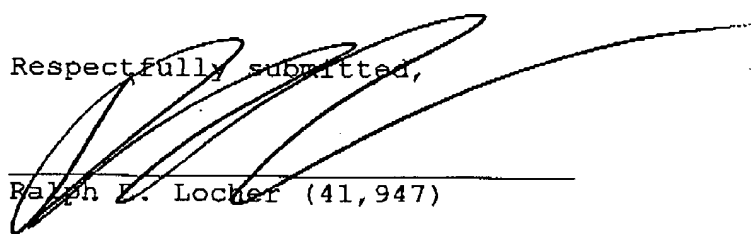
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The honorable Board is therefore respectfully urged to  
reverse the final rejection of the Primary Examiner.

If an extension of time is required, petition for extension  
is herewith made.

Please charge any other fees which might be due with respect  
to Sections 1.16 and 1.17 to Deposit Account No. 12-1099 of  
Lerner Greenberg Stemer LLP.

Respectfully submitted,



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REL/bb

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Claims Appendix:

1. A method of announcing an individual apparatus to a system containing a central apparatus, which comprises the steps of:

announcing the individual apparatus to the system using optical communication;

storing information about the individual apparatus in the system in the central apparatus; and

after completing the announcing step, communicating further information through radio communications.

2. The method according to claim 1, wherein the announcing is effected to the central apparatus.

3. The method according to claim 1, which further comprises:

announcing an intermediary apparatus to the central apparatus;

announcing the individual apparatus to the intermediary apparatus resulting in an announcement; and

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forwarding the announcement of the individual apparatus from the intermediary apparatus to the central apparatus.

4. The method according to claim 1, which further comprises performing the optical communication unidirectionally from the individual apparatus doing the announcing to an apparatus for registering the announcing.

5. The method according to claim 1, which further comprises after the announcing has occurred, outputting an acoustic confirmation signal by at least one of an apparatus registering the announcing and the central apparatus.

6. The method according to claim 1, which further comprises forming the system as a radio network.

7. The method according to claim 1, which further comprises forming the system as a data acquisition and data collection system.

8. The method according to claim 1, which further comprises performing the optical communication in an infrared range.

9. The method according to claim 1, which further comprises forming the system as a consumption data acquisition and

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collection system reporting information relating to at least one of electricity consumption, water consumption, gas consumption and heat cost data.

10. An apparatus for communicating with at least one other apparatus, the apparatus comprising:

an optical interface for implementing optical communication with the at least one other apparatus, the optical communication providing information about the apparatus for announcing a presence of the apparatus to the at least one other apparatus.

11. A system, comprising:

a first apparatus being a central apparatus having a first optical interface for performing optical communication; and

a second apparatus selected from the group consisting of an individual apparatus and an intermediary apparatus and having a second optical interface for performing optical communication with said first optical interface, the optical communication only providing information about said second apparatus for announcing a presence of said second apparatus to said first apparatus.

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12. The system according to claim 11, wherein:

the system is a data acquisition and data collection system;

said central apparatus is a master data collector;

said intermediary apparatus is a data collector; and

said individual apparatus is a terminal apparatus and data communication between said apparatuses is effected by way of radio.

13. The system according to claim 12, wherein the system is a consumption data acquisition and collection system reporting information relating to at least one of electricity consumption, water consumption, gas consumption and heat cost data.

14. A system, comprising:

a first apparatus being a central apparatus having a first optical interface for performing optical communication;

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a second apparatus being an individual apparatus and having a second optical interface for performing optical communication; and

a third apparatus being an intermediary apparatus and having a third optical interface for performing optical communication, said third optical interface communicating with said first and second optical interfaces, the optical communication providing information about said second and third apparatuses for announcing a presence of said second and third first apparatuses to said first apparatus.

15. The system according to claim 14, wherein:

the system is a data acquisition and data collection system;

said central apparatus is a master data collector;

said intermediary apparatus is a data collector; and

said individual apparatus is a terminal apparatus and data communication between said first, second and third apparatuses is effected by way of radio.

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16. The system according to claim 14, wherein the system is a consumption data acquisition and collection system reporting information relating to at least one of electricity consumption, water consumption, gas consumption and heat cost data.

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Evidence Appendix:

No evidence pursuant to Sections 1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner and relied upon by appellant in the appeal.

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Related Proceedings Appendix:

No prior or pending appeals, interferences or judicial proceedings are in existence which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal. Accordingly, no copies of decisions rendered by a court or the Board are available.